

REMARKS

Claims 1-76 are in the application. Claims 1, 23, 31, and 58 were previously presented; claims 34-38 and 72-76 are withdrawn; and claims 2-22, 24-30, 32, 33, and 39-71 remain unchanged from the original versions thereof. Claims 1, 22, 31, 34, 39, 60, 69, and 72 are the independent claims herein.

No new matter is added to the application as a result of the present Response.

Reconsideration and further examination are respectfully requested.

Claim Rejections under 35 USC § 102(b)

The Office Action maintained the rejection of claims 1-33 and 39-71 as being anticipated by Herz under 35 U.S.C. §102(b). This rejection is respectfully traversed.

Applicant's arguments of record are incorporated herein, where applicable.

Regarding the rejection of independent claims 1 and 39, Applicant respectfully submits that the cited and relied upon Herz does not disclose each and every element of the claims. Each of claims 1 and 39 relates to determining preference information including determining preference information associated with a consumer, and mixing the preference information with preference information associated with a plurality of consumers. Moreover, a degree to which the preference information associated with the consumer is mixed with the preference information associated with the plurality of consumers is different than a second degree to which second preference information associated with a second consumer is mixed with preference information of a second plurality of consumers. Thus, it is clear that Applicant claims mixing preference information associated with a (i.e., one) consumer with preference information associated with a plurality (i.e., more than one) of consumers, and mixing second preference

information associated with a (i.e., one) second consumer with preference information associated with a second plurality (i.e., more than one) of consumers.

However, the cited and relied upon Herz fails to disclose, at least, a method and a medium for determining preference information including mixing preference information associated with a consumer with preference information associated with a plurality of consumers wherein a degree to which the preference information associated with the consumer is mixed with the preference information associated with the plurality of consumers is different than a second degree to which second preference information associated with a second consumer is mixed with preference information of a second plurality of consumers.

Instead, Herz discloses associating “target objects” of various types with a user. Herz does not appear to disclose or suggest, at least, (1) mixing or a step to mix the preference information of the consumer with preference information associated with a plurality of consumers, and (2) second preference information associated with a second consumer that is mixed with preference information of a second plurality of consumers. While the Office Action attempts to find support for the alleged rejection of claims 1 and 39 in the same citations of Herz previously addressed in the arguments of record, Applicant respectfully reiterates that Herz does not disclose or suggest a mixing or a step to mix the preference information of the consumer with preference information associated with a plurality of consumers, and (2) second preference information associated with a second consumer that is mixed with preference information of a second plurality of consumers.

First, Applicant notes that Herz clearly and explicitly defines the term target object as “an object available for access by the user, which may be either physical or electronic in nature”. (See col. 4, ln. 49-51) Also, Herz clearly and explicitly defines the term user as “the user looking for the target object”. Thus, it is clear that the Herz disclosed “target object” and “user” are not the same,

similar, and should not be misunderstood to be the same or similar given the explicit definitions of each provided by Herz.

Furthermore, the Office Action cites and relies upon a portion of Herz that is directed to and descriptive of "target objects of various sorts" (col. 7, ln. 19); "large numbers of target objects" (col. 7, ln. 55); "large numbers of articles" (col. 8, ln. 17-18) "large numbers of target objects" (col. 8, ln. 28-29). The large number or plurality of target objects are not the same as nor suggestive of a plurality of consumers and a second plurality of consumers. Also, Herz discloses target objects may include attributes liked or disliked by a user.

Therefore, Herz discloses associating numerous target objects with a (i.e., one) user, and does not appear to be disclose associating target objects or preference information with a plurality of consumers. Additionally, while Herz discloses associating numerous target objects with a (i.e., one) user, there does not appear to be any disclosure of associating target objects or second preference information with a second plurality of consumers.

The Office Action also cites and relies upon Herz at col. 12, ln. 25-35. However, a reading thereof reveals a discussion of a number of attributes (a) through (m) that are associated with a (i.e., one) user. Even in the instance where the targets are potential customers having attributes (a) through (m), the potential customers are not transformed into users. Instead, they remain target objects. (col. 11, ln. 66 – col. 12, ln.2) This is at least true due to the explicit definitions provided by Herz.

The extensive citation in the Office Action to cols. 16 and 17 (duplicated on pages 9, 10, and 11 of the Office Action) does not disclose that for which it was cited and relied upon as disclosing. Namely, the cited and relied upon disclosure discusses determining a distance between two target objects. (col. 16, ln. 52) There does not appear to be any disclosure or suggestion of "a degree to which the preference information associated with the consumer is mixed with the

preference information associated with the plurality of consumers is different than a second degree to which second preference information associated with a second consumer is mixed with preference information of a second plurality of consumers." Importantly, there does not appear to be any disclosure of, at least, preference information associated with the plurality of consumers and preference information of a second plurality of consumers, let alone any of the claimed mixing.

Therefore, Applicant respectfully submits that Herz does not disclose, at least, mixing preference information of a consumer with preference information associated with a plurality of consumers wherein a degree to which the preference information associated with the consumer is mixed with the preference information associated with the plurality of consumers is different than a second degree to which second preference information associated with a second consumer is mixed with preference information of a second plurality of consumers.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the 35 USC 102(b) rejection of claims 1 and 39. Claims 2-21 and 40-59 depend from claims 1 and 39, respectively. It is submitted that claims 2-21 and 40-59 are patentable over Herz for at least the same reasons stated herein regarding claims 1 and 39.

Regarding independent claim 22, the rejection relies on the reasoning and basis alleged against claim 11. It is noted that claim 11 is dependent on claim 1, which is believed to be patentable over Herz under 35 USC 102(b) as discussed in detail above. Furthermore, the Office Action rejects the method and medium of claims 22 and 60 for similar reasons.

Inasmuch as Applicant maintains that claim 11 depends from a patentable claim, it is respectfully submitted that claims 22 and 60 are patentable over Herz under 35 USC 102(b), as are the claims 23-30 and 61-68 depending therefrom.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 22-30 and 60-69.

Regarding independent claim 31, the rejection relies on the reasoning and basis alleged against claim 2. It is noted that claim 2 is dependent on claim 1 that is believed to be patentable over Herz under 35 USC 102(b) as discussed in detail above. Also, the Office Action rejects the method and medium of claims 31 and 69 for similar reasons.

It is respectfully submitted that claims 31 and 69 are patentable over Herz under 35 USC 102(b), as are the claims 32-33 and 70-71 depending therefrom.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the rejection of claims 31-33 and 69-71.

CONCLUSION

Accordingly, Applicant respectfully and earnestly requests the allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-0049.

Respectfully submitted,



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